

PT 01-15

Tax Type: Property Tax

Issue: Religious Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS**

**BOOK ROAD
BAPTIST CHURCH,
APPLICANT**

v.

**ILLINOIS DEPARTMENT
OF REVENUE**

**Nos. 00-PT-0016
(99-99-0134)
(99-99-0135)
P.I.N.S: 01-15-207-030
01-15-207-039**

RECOMMENDATION FOR DISPOSITION

APPEARANCES: Mr. Daniel A. Reed, Schanlaber & Reed, P.C., on behalf of the Book Road Baptist Church (hereinafter the “applicant”).

SYNOPSIS: These consolidated matters present the limited issue of whether real estate identified by Will County Parcel Index Numbers 01-15-207-030 and 01-15-207-039¹ were “used exclusively for religious purposes,” as required by Section 15-40 of the Property Tax Code (35 **ILCS** 200/1-1, *et seq.*) during the 1999 assessment year. The underlying controversies arise as follows:

Applicant filed a two separate Applications for Property Tax Exemption with the Will County Board of Review (hereinafter the “Board”) on August 25, 1999. The Board reviewed applicant’s petition and recommended to the Illinois Department Of Revenue (hereinafter the “Department”) that the requested exemptions be granted. On

February 3, 2000, the Department issued two separate determinations finding that the subject properties were not in exempt use.

Applicant filed an appeal as to these denials and later presented evidence at a formal evidentiary hearing. Following a careful review of the record made at that hearing, I recommend that both of the Department's determinations in these matters be reversed.

FINDINGS OF FACT:

1. The Department's jurisdiction over these matters and its positions herein, namely that the subject properties are not in exempt use, are established by the admission of Dept. Group Ex. Nos. 1, 2.
2. Applicant, an Illinois not for profit corporation, is a Baptist Church affiliated with the General Assembly of Regular Baptist Churches. Applicant Ex. No. 1; Applicant Group Ex. No. 4.
3. Applicant did not have its own meeting facility, but met at Patterson Elementary School in Naperville, throughout the 1999 assessment year. Applicant Group Ex. No. 4; Tr. p. 15.
4. The subject properties have no common street address but are identified by the following legal descriptions:
 - A. Parcel 039: Lot 262, in Clow Creek Farm Unit 1, being in part of the Northeast ¼ of Section 15, Township 37 North, Range 9 East of the Third Principal Meridian, according to the plat thereof recorded March 20, 1995, as Document No. R95-17409, in the City of Naperville, Wheatland Township, in Will County, Illinois;

1. All subsequent references to the individual properties shall be by the last three digits of the parcel index number (i.e. "039" for P.I.N. 01-15-207-039); all subsequent references to the two properties as a collective whole shall be to the "subject properties."

- B. Parcel 030: Lot 94 in Clow Creek Farm Unit I, being in part of the Northeast ¼ of Section 15, Township 37 North, Range 9 East of the Third Principal Meridian, according to the plat thereof recorded March 20, 1995, as Document No. R95-17409, in the City of Naperville, Wheatland Township, in Will County, Illinois.

Applicant Ex. Nos. 3A, 3B.

5. Applicant obtained ownership of the subject properties by means of the following instruments:

P.I.N.	INSTRUMENT	DATE
039	Warranty Deed	December 28, 1995
030	Warranty Deed	June 9, 1998

Dept. Group Ex. No. 1; Applicant Ex. Nos. 1, 3A, 3B.

6. The deed by which applicant obtained ownership of parcel 039 specifically stated that applicant was to use the property strictly for church purposes until June 1, 2031. Applicant Ex. No. 3A.
7. Applicant purchased the subject properties with the intention of constructing a permanent church complex on parcel 039 and a parsonage on the adjoining parcel 030. Dept. Group Ex. No. 1; Applicant Ex. No. 5; Tr. pp. 29-42; 44-45.
8. Both subject properties were completely vacant and unimproved as of the purchase dates. They have remained in that condition since the purchase dates, and specifically throughout the 1999 assessment year, because applicant had not obtained appropriate funding for the construction project. Tr. pp. 41-42, 44-45.
9. Applicant did, however, hold a series of weekly outdoor prayer meetings at the subject properties during the spring, summer and fall of 1999. It also held a various youth group activities, such as flag football games, at the subject properties during the fall of 1999. Applicant Group Ex. No. 4; Tr. pp. 11-27.

CONCLUSIONS OF LAW:

An examination of the record establishes that this applicant has demonstrated by the presentation of testimony or through exhibits or argument, evidence sufficient to warrant exempting the subject properties from 1999 real estate taxes under Section 15-40 of the Property Tax Code, 35 **ILCS** 200/1-1, *et. seq.* Accordingly, under the reasoning given below, the determinations by the Department that said properties do not qualify for such exemption under 35 **ILCS** 200/15-40 should be reversed. In support thereof, I make the following conclusions:

Article IX, Section 6 of the Illinois Constitution of 1970 provides as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Pursuant to Constitutional authority, the General Assembly enacted Section 15-40 of the Property Tax Code, 35 **ILCS** 200/1-1 *et seq.* (hereinafter the “Code”), wherein the following are exempted from real estate taxation:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise use with a view to a profit ... [.]

35 **ILCS** 200/15-40.

Statutes conferring property tax exemptions are to be strictly construed so that all factual and legal inferences favor of taxation. People ex rel. Nordland v. Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987). Consequently, applicant bears the burden of proving that the property it is seeking to exempt falls within the pertinent statutory exemption. *Id.*

Here, the relevant statute requires applicant to prove that it actually used or developed the subject properties for some specifically identifiable purpose that qualifies as “exclusively ... religious” within the meaning of Section 15-40. *Compare, Antioch Missionary Baptist Church v. Rosewell*, 119 Ill. App.3d 981 (1st Dist. 1983) (church property that was completely vacant throughout the tax year in question held non-exempt); *with, People ex rel. Pearsall v. Catholic Bishop of Chicago* 311 Ill. 11 (1924) (all portions of seminary property being actively developed for seminary-related purposes, except one tract which lie fallow throughout relevant tax year, held exempt).²

As applied to uses of property, a religious purpose means “a use of such property by a religious society or persons as a stated place for public worship, Sunday schools and religious instruction.” *People ex rel. McCullough v. Deutsche Evangelisch Lutherisch Jehova Gemeinde Ungeanderter Augsburgischer Confession*, 249 Ill. 132, 136-137 (1911). Furthermore, the word “exclusively” when used in Section 15-40 and other property tax exemption statutes means “the primary purpose for which property is used and not any secondary or incidental purpose.” *Pontiac Lodge No. 294, A.F. and A.M. v. Department of Revenue*, 243 Ill. App.3d 186 (4th Dist. 1993).

2. *See also, Weslin Properties v. Department of Revenue*, 157 Ill. App. 3d 580 (2nd Dist. 1987) (part of medical facility that was under active construction during tax year in question held exempt).

In this case, business reality dictates that applicant could not begin developing the subject properties for their intended use without appropriate financing. Applicant did not have such financing during the 1999 assessment year. However, whatever uses applicant made of the subject properties during that time, namely prayer meetings and youth group activities, were consistent with its ultimate goal of constructing a permanent church facility thereon. Because applicant's developmental efforts must be viewed in light of its ultimate intended use (Lutheran Church of the Good Shepherd of Bourbonnais v. Illinois Department Of Revenue, 316 Ill. App.3d 828, 834 (3rd Dist., October 13, 2000)), I conclude that the subject properties were in exempt use, as required by Section 15-40, during the 1999 assessment year. Therefore, the Department's determinations to the contrary should be reversed.

WHEREFORE, for all the aforementioned reasons, it is my recommendation that real estate identified by Will County Parcel Index Numbers 01-15-207-030 and 01-15-207-039 be exempt from 1999 real estate taxes under Section 15-40 of the Property Tax Code, 35 ILCS 200/1-1, *et seq.*

March 20, 2001
Date

Alan I. Marcus
Administrative Law Judge